THE HON'BLE MR JUSTICE K.C. BHANU

-

DATE: 9.9.2005

-

WRIT PETITION NO : 19920 of 2005

Between:

M.Subrahmanyam, S/o.R.Munaswamy,
D.No.3/11, Teachers Colony, Madanapalli , Chittoor district.

..... PETITIONER

AND

1 The Manager, Andhra Bank, Madanapalli, Chittoor district & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION No: 19920 of 2005

-

-

ORAL ORDER:

Challenging the proceedings dated 21.8.2005 of the District Collector, Chittoor in invoking the powers conferred under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the present writ petition is filed.

Firstly, learned counsel for the petitioner contends that principles of natural justice have been violated before issuing the impugned order and for that proposition he relied upon the decision in MARDIA CHEMICALS LTD., & OTHERS (). Secondly, he contends that the impugned proceedings under Section 14 of the Act were actually issued to Smt. M. Bhubaneswari, who is not a loanee or a mortgagor, but, the bank issued the notices under the Act to one Subrahamanyam and that the property belongs to the said Subrahmanyam. Therefore, the impugned proceedings are bad in law and are liable to be set aside.

The learned Government Pleader, on the other hand, opposed the contentions of the learned counsel for the petitioner on the ground that when the Authorised Officer had requested the Collector to proceed against the petitioner under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the “Act”), the impugned proceedings have been issued by the Collector and therefore, there is no violation of principles of natural justice.

There cannot be any dispute that principles of natural justice cannot be put in a strait-jacket formula and applied to each and every case. It is well settled that when a substantial right of the petitioner is being affected, then only principles of natural justice have to be followed. The petitioner has obtained loan from the 1st respondent-bank and the said loan amount is secured by a mortgage deed. When the petitioner failed to repay the loan amount and committed default in payment of

the same, the Authorised Officer of the bank requested the Collector, Chittoor to take action. The Collector while invoking the powers conferred under Section 14 of the Act, issued the impugned proceedings. Since the order under challenge does not affect the right of the petitioner in any manner, the question of violation of principles of natural justice does not arise. In view of the fact that the petitioner committed default in payment of secured loan amount, the contention of the learned counsel for the petitioner that he paid the amount and that the amount has not been credited to his account cannot be believed and the same cannot be decided by this Court while exercising its jurisdiction under Article 226 of the Constitution of India.

So far as the second contention of the petitioner is concerned, it is not known actually in whose favour the Mortgage deed was executed and by whom. Therefore, the petitioner cannot be permitted to raise this contention.

The writ petition, therefore, fails and is accordingly dismissed. No costs.

_____

K.C. BHANU,J

DATE: 9th September, 2005

pnb